THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.1740 of 2005

Date: 21st September, 2007

Between :-

Sri Sarada Peeta Paripalitha
Sri Veeranjaneya Swamy Vari Devasthanam,
Main Road, Old Guntur, Guntur,
being rep.by its Secretary, K.Sambasiva Rao .. Petitioner

and

The Assistant Commissioner
Of Endowments department,
Guntur and another .. Respondents

THE HON'BLE SRI JUSTICE P.S.NARAYANA

Writ Petition No.1740 of 2005

ORDER:-

Heard Sri C.C.S.Sastry, the learned Counsel representing the writ petitioner, the learned A.G.P. for Endowments representing 1st respondent and Sri Gurugopal, the learned Counsel representing 2nd respondent.

2. This Court ordered notice before admission on 4-2-2005 and also made an interim order as specified

hereunder:-

> *"Heard learned Counsel for the petitioner and the learned Government Pleader for Endowments on the limited aspect of interim order.*
>
> *While the petitioner contends that the Temple is not registered with the Endowments Department, learned Government Pleader for Endowments, on verification, submits that it was registered under the Old Act, 1977, and registered it on 12-11-1992 under the new Act.*
>
> *It shall be open to the petitioner to make an application under Section 145 of the A.P.Charitable and Hindu Religious Institutions & Endowments Act 1987, within two weeks from today, to the Commissioner of Endowments for continuing the management of the Temple under Sri Sarada Peetham. On receiving such application, the Commissioner of Endowments shall pass appropriate orders, in accordance with law. In the meanwhile, the existing arrangement as to management shall continue and the petitioner shall not alienate or other wise encumber any immovable property or part with movable properties of the Temple. The day-to-day accounts of the Temple shall be maintained meticulously and it shall be open to the Assistant Commissioner of the area, to verify the same, from time to time."*

It is stated that in pursuance thereof, an application was made and the same had been rejected on 15-4-2005 and questioning the same, Revision 32066/Endowments/2005

is pending before the Government.

3. The Writ Petition is filed for a Writ of Mandamus or any other appropriate Writ, order of direction declaring the action of the 1st respondent in appointing the 2nd respondent as Single Trustee of the petitioner-Temple in its old form and without prior notice vide Rc.No.A5/14713/2004-Adm. Dt.4-1-2005 as arbitrary, illegal and wholly without jurisdiction and consequently the show cause notice-cum-order dt.21-1-2005 issued by the 2nd respondent to hand over all records of the Temple (also addressed in old-form) is also per se illegal and therefore liable to be set aside and to pass such other suitable orders.

4. Counter affidavits are filed by both 1st and 2nd respondents as well.

5. Sri C.C.S.Sastry, the learned Counsel representing the writ petitioner had drawn the attention of this Court to document No.3987/99, a certificate said to have been issued by the Assistant Commissioner, Endowments Department, Guntur, certifying that the subject Temple is not under the control of Endowments Department. The Counsel also would submit that though in the respective counter affidavits it is stated that this certificate is not a genuine one and a forged one, the said stand cannot be

believed since even on a cursory glance it is clear that the certificate is a genuine one and the genuineness of the same cannot be doubted. The learned Counsel also would contend that in relation to the mismanagement or otherwise, the Accounts are being maintained properly and absolutely there is no truth in the contentions advanced by the respective Counsel representing the respondents. The learned Counsel also had taken this Court through the respective pleadings of the parties and would maintain that in the facts and circumstances, the Writ Petition to be allowed or at least during the pendency of the revision before the Government, the interest of the petitioner to be protected.

6. Per contra, the learned A.G.P. for Endowments had taken this Court through the respective portions of the counter affidavits filed by the 1st respondent and in particular pointed out to the averments made in para 7 of the counter affidavit and would maintain that in the light of the same, the stand taken by the petitioner in the affidavit filed in support of the Writ Petition cannot be accepted. The learned Counsel would maintain that the term of the 2nd respondent however is over. The learned Counsel also would submit that as far as the power to appoint a Single Trustee is concerned, the same cannot be called in

question in the facts and circumstances of the case. The learned Counsel also had drawn the attention of this Court to Sections 15 and 17 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 and would conclude that in the light of the facts and circumstances, the Writ Petition is liable to be dismissed.

7. Sri Gurugopal, the learned Counsel representing the 2nd respondent would contend that the 2nd respondent is interested in the Institution and several of the averments made in the counter affidavit and also the Inspection Report dt.17-2-2005 and the other documents would clearly go to show about the mismanagement of the subject Temple. The learned Counsel would contend that inasmuch as the 2nd respondent is interested in the welfare of the smooth administration of the petitioner Temple in question, especially, in the light of the specific stand taken in the counter affidavit, the Writ Petition deserves a summary dismissal. The Counsel also incidentally had drawn the attention of this Court to Section 145 of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 and would draw the attention of this Court to the relevant portions of the counter affidavit of the 1st respondent in this regard.

8. Heard the Counsel. Perused the material available

on record.

9. The petitioner filed the Writ Petition challenging the action of the 1st respondent in appointing the 2nd respondent as Single Trustee to the petitioner Temple on several grounds. The show cause notice dt.21-1-2005 issued by the 2nd respondent to handover the records of the Temple also had been called in question. It is averred in para 3 of the affidavit filed in support of the Writ Petition that Sri Veeranjaneya Swamy vari Temple located at main road, at old Guntur, was given in adoption to Sri Sarada Peetam, Visakhapatnam, during the year 2001 and from then onwards, the Temple is under control and management of Sri Sarada Peetam, Visakhapatnam. It is also stated that prior to the transfer, the 1st respondent herein in the year 1999, certified that Sri Veeranjaneya Swamy Temple is not governed by the provisions of Endowments Act 30/1987 vide Boc.No.3987/99 dt.19-6-1999. It is further stated that thereupon, after the transfer of management of the Temple to Sri Sarada Peetam, it is come to be known as “Sri Sarada Peeta Paripalita – Sri Veeranjaneya Swamy Vari Davastanam” and The Peetadhipati – Jagadguru Sri Sri Sri Swaroopanandeswara Swamy administered a committee to look after the affairs of the Temple and ever since till

date there is no complaint from any quarter about the affairs and functioning of the petitioner – Devasthanam. It is also further averred that as things stood thus, the 2nd respondent issued show cause notice – cum – order dt.21-1-2005 to hand over the records of Sri Anjaneya Swamy vari Temple within one week on receipt of notice, failing which suitable action will be initiated as per the provisions of Endowments Act 30/87. It is also stated that along with the said notice, the 2nd respondent enclosed the order of the 1st respondent – Assistant Commissioner of Endowments, Guntur, in Rc.No.A5/14713/2004, dt.4-1-2005 appointing the 2nd respondent as Single Trustee of the Sri Anjaneya Swamy Vari Devasthanam, the order further reads that the 2nd respondent after assuming charge – to take over records from the present defacto Single Trustee failing which to take action under Section 133 of the Act 30/87. It is further stated that both the orders of the respondents are addressed to the Temple in its old form and there is no notice whatsoever in its new form and aggrieved by the orders of the respondents herein to take forcible possession, the present Writ Petition is filed. It is also further stated that there is no effective alternative remedy except to invoke the jurisdiction of this Hon'ble High Court under Article 226 of

the Constitution of India. It is also further stated that consequent to the receipt of the notice from the 2nd respondent herein the petitioner gave reply dt.23-1-2005 and also appraised about the fact that the state of affairs of the Temple being handed over to Sri Sarada Peetam of Visakhapatnam in the year 2001 itself and ever since that date, the Temple is renamed as "Sri Sarada Peeta Paripalitha – Sri Veeranjaneya Swamy Vari Devasthanam" and that there were no complaints from any quarter. It is further stated that the order of the 1st respondent herein in appointing the 2nd respondent as Single Trustee is without any prior notice and is also addressed in its old-form is *per se* illegal, arbitrary and wholly without jurisdiction. It is also stated that there is no allegation or complaint about the mismanagement of the Temple in question at any time, and as such the respondents cannot assume charge at their sweet will and pleasure and therefore the orders of the respondents herein are liable to be set aside. In such circumstances, the present Writ Petition was filed.

10. The order impugned reads as hereunder:-

PROCEEDINGS OF THE ASSISTANT COMMISSIONER : ENDOWMENTS DEPARTMENT : GUNTUR

Present : Sri P.Narasimha Rao, B.Sc., Assistant

Commissioner,

Rc.No.A5/14713/2004-Adm., dt.4-1-2005.

Sub:- Endowments Department – Guntur (Dt.&M) – Old Guntur –

Sri Anjaneya Swamy Temple – Appointment of Single Trustee – Orders – Issued.

Ref:- Lr. In Rc.No.745/2004, dt.23-12-2004 from the Inspector,

Endowments Department, Guntur.

* * *

In view of the circumstances reported by the Inspector, Endowments Department, Guntur, in the reference cited and in the interest of the public service and better administration of the subject Temple and in exercise of the powers vested in him U/s.15(3) of the Endowments Act 30/87 the Assistant Commissioner, Endowments Department, Guntur hereby appoints Sri L.Venkata Rao, Manager of Sri Yadavallivari Choultry as Single Trustee of the subject Temple until further orders.

Sri L.Venkata Rao, Manager is requested to take complete charge of Accounts and Records, Movable and Immovable properties relating to subject Temple from present defacto Single Trustee. If he fails to handover the charge, he is instructed to assume charge of the subject Temple and open new records and accounts and also take U/s.133 of the Act 30/87.

The present defacto Managing Trustee is requested to handover complete charge of records and accounts, movable and immovable properties of the subject Temple to Sri L.Venkata Rao, Manager who is appointed now as Single Trustee of the subject Temple.

The Inspector, Endowments Department, Guntur is authorized to administer the oath of office and secrecy to

the Single Trustee appointed herein and submit oath report at once.

Sd/-

Assistant Commissioner

It may also appropriate to have a look at document No.3987/99 with seal and duly signed by the Assistant Commissioner, Endowments Department, Guntur. It is needless to say that this document is being denied. The said document – certificate reads as hereunder:-

Doct.No.3987/99

CERTIFICATE

Certified that Sri VEERANJANEYASWAMY DEVASTHANAM situated opposite Main Road, Old Guntur, Guntur Mandal and District is not published and Registered under the possession of the Andhra Pradesh Charitable and Hindu Religious Institutions & Endowments Act, 1987 and not under the control of Endowments Department.

sd/-
Assistant Commissioner,
Endowments Department,
GUNTUR.

11. In the counter affidavit filed by the 1st respondent it is stated that the subject institution is a Public Religious Institution governed by the provisions of Endowments Act. It is further averred that the subject institution was published as such under Section 6 of the Endowments Act 17/66 in the year 1972 in R.C.No.5237/72/J2, by the Commissioner, Endowments Department, A.P., Hyderabad under serial No.1070 and again the same was

republished in the year 1987 under the New Amended Act 30/87 in R.Dis.No.J3/42157/87, dt.12-11-1987 by the Commissioner, Endowments Department, A.P., Hyderabad under serial No.1166 and hence it was brought under the purview of the Endowments Act and the provisions made there under. It is also stated that as such this respondent has got jurisdiction order the subject matter and as per the powers vested in him U/s.(3) of the Act 30/87. It is also stated that this respondent appointed 2nd respondent as Single Trustee to the subject institution, in the witness of public service and in order to have better administration and hence there is no illegality in the order passed by this respondent opining 2nd respondent as Single Trustee to the subject institution and this respondent has got jurisdiction over the subject Institution since it was already published under the provisions of the Act as stated above. It is further averred that after the publication of the It is stated that and after bringing the subject Institution under the purview and control of the Endowments Act 30/87, the so-called adoption is null and void, without applying the provisions of the Act. It is also stated that as per the records of this respondent, there is no such certificate was given under Document No.3987/99, dt.19-6-99 and in fact a perusal of the said

seal of this office is also different from the seal of this office. It is further stated that it is pertinent to note that all the proceedings or any order if any are issued through the procedure in vogue i.e., by mentioning the concerned Section of the office and the file No.1 proceedings Humber etc., but not in the said form as in the said certificate filed by the petitioner and further a perusal of the signature of the then Assistant Commissioner, Endowments Department, Guntur i.e., Sri V.Ankineedu Prasad is also not tallying with the signature as mentioned in the said certificate and hence, the so-called certificate might be a false and concocted one and has no value in the eye of law. It is also stated that the said transfer of the It is stated that and constitution of Trust Board by the said Peetham is not valid and binding on this respondent. It is also further stated that it is true that this respondent as per the powers vested in him u/s. 15 (3) of the Act 30/87, appointed 2nd respondent as Single Trustee to the subject Temple in the interest of public service and better administration. It is also stated that as the so-called transfer of the Institution without following the provisions of the Endowments Act is null and void as stated supra and it is pertinent to note that the subject Institution i.e., Sri Veeranjaneya Swamy Devasthanam, old Guntur, Guntur,

is a vaishnavite cult Temple in which the rituals are being performed according to Pancharatra Aagama, but whereas the Sarada Peetham, Visakhapatnam which is stated to be adopted the subject institution belongs to Shaiva Aagama and hence they have no similar objects and as such the so-called adoption is also not valid and binding on this respondent. It is further stated that even there is no prior permission under Section 145 of the Act 30/87 from the Commissioner, Endowments Department, A.P., Hyderabad for the said adoption. It is also further stated that there is an alternative efficacious remedy provided under the Act and the Writ Petitioner cannot invoke the extraordinary jurisdiction of this Hon'ble Court under Article 226 of the Constitution of India and if the petitioner has got any grievance, he can file a revision before the Regional Joint Commissioner, Endowments Department, Multizone-II, Tirupati, under Section 92 of the Endowments Act 30/89. It is also further stated that there is mis-management in the administration of the subject Temple and only for better management of the institution, this respondent appointed 2nd respondent as Single Trustee and even after the interim order of this Court dt.4-2-2005, this respondent appointed Enquiry Officers for inspection and verification of the accounts and records

and movable and immovable properties of the Temple as per Rc.No.A5/14713/2004, Adm., dt.8-2-2005. It is also stated that the said Enquiry Officers Sri D.Srinivasa Rao who is working as Superintendent in Sri Bramaramba Malleswara Swamy Temple, Pedda Kakani, Guntur District and Sri K.B.Srinivasa Rao, Superintendent and Executive Officer, Valiveru Group Temples, Guntur District visited the said Temple on 15-2-2005 for inspection and verified the records available with the Secretary, Sri K.Sambasiva Rao and a Member Sri Grandhi Venkateswarlu and even recorded the statements of those persons and submitted the details Inspection Report. It is further stated that they have submitted only the cash book from 1-4-2004 and the Audit Reports pertains to the period from 1-6-2001 to 31-3-2004 but failed to produce any other records showing the income and expenditure and also the particulars of the other movable properties like Gold, Silver articles etc., of the Temple. It is further stated that a perusal of the Inspection Report dt.17-2-2005 clearly reveals the mis-management in the subject Temple and in that it came into light that they have unauthorisedly sold away some of the land of Ac.2-11 cents in D.No.687 and got sale proceeds but failed to produce the particulars of the said sales i.e., as regards the actual extent sold away and the actual rate

and also the persons to whom they sold away. It is further stated that the statement of the previous Secretary Sri Grandhi Venkateswarlu clearly reveals the same and even the audit report produced by the said persons also reveals that the Temple had got an extent of 1577 sq.yards of land at Old Guntur and some of the land was given to Sri Saraswathi Sisu Mandir and as regards the remaining land, it was not shown in their accounts and also regarding the cost and value of the said laid. It is also stated that the auditor pointed out in his report dt.2-8-2003 and also 5-12-2004 that interest accrued on fixed deposits is not taken into consideration nor the certificates of interest from the concerned bankers were produced for the verification and that the interest on deposits with Postal Department and the income on the Kalyana Mandapam was also not considered as there is no separate account books are maintained for the income on Kalyana Mandapam and as such the income from the Kalyana Mandapam is not ascertainable. Likewise, there are many objections raised by the auditors who are appointed by the Temple management. Certain further particulars also had been narrated relating to the inspection report and the audit report and the other records as well at paras 8, 9 and 10 of the counter

affidavit filed by the 1st respondent.

12. In the counter affidavit filed by the 2nd respondent Substantially, the similar stand had been taken in the counter affidavit of 1st respondent.

13. Sri C.C.S.Sastry had produced before this Court several material papers showing the maintenance of accounts and other particulars of the Institution in question. As can be seen from the respective stands taken by the parties, specific stand had been taken even by the 1st respondent that never such Certificate had been issued and the same had been specifically denied. Further, several other factual controversies had been narrated in detail. Certain of the irregularities relating to the affairs of the management of the Institution in question and the other aspects which had been brought to the notice of this Court need not elaborately be discussed in this Writ Petition since these are all factual controversies, the petitioner asserting certain facts and the respondents denying the same and taking a specific stand that there had been mismanagement.

14. Be that as it may, it appears the petitioner made an application in pursuance of the interim order under Section 145 of Act 30/87 to the Commissioner of Endowments and it is also brought to the notice of this

Court that in view of the fact that the same had been rejected, a Revision 32066/Endowments/05 had been preferred and the same is pending before the Government. There is no doubt some controversy between the parties relating to the scope and ambit of the revision. This aspect also need not be adverted to by this Court and the respective parties are at liberty to advance all the contentions in the pending revision if they are so advised. In the light of the peculiar facts and circumstances, this Court is of the considered opinion that the Government be directed to dispose of the revision 32066/Endowments/05 said to be pending on the file of the Government within a period of four weeks from the date of receipt of a copy of this order and in view of the facts and circumstances, till then, *status quo* as on today to be maintained. Accordingly, the Writ Petition is disposed of. No order as to costs.

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Justice P.S.Narayana

21st September, 2007

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